

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ANGEL ROGERS, et al.,

Plaintiff,,

v.

COUNTY OF KERN, et al.,

Defendants.

Case No. 1:23-cv-01182-NODJ-SAB

ORDER ENTERING STIPULATED  
PROTECTIVE ORDER

(ECF No. 22)

On February 26, 2024, the parties stipulated through their respective counsel that the following Protective Order (ECF No. 22) be entered:

**I. Definitions:**

The following definitions shall govern the construction of this stipulation unless the context otherwise requires.

(a) CONFIDENTIAL Information. "CONFIDENTIAL Information" means any and all Information regardless of format or medium, including personal, proprietary, and financial information, state and federal tax records, and other Information which a party has a right to protect from unrestricted disclosure. In the context of the present case, it also includes, but is not limited to: (1) any peace officer information protected by California Penal Code Section 832.7 and California Evidence Code Sections 1043 to 1047 and (2) Kern County Coroner reports, autopsy reports and photographs.

(b) Disclosing Party: "Disclosing Party" means the party who discloses

1 CONFIDENTIAL Information.

2 (c) Information. “Information” means discovery obtained through the use of  
3 interrogatories, requests for admission, requests for production of documents and things, depositions,  
4 subpoenas or other Information obtained during discovery.

5 (d) Notice. “Notice” means reasonable notice under the circumstances. The manner and  
6 amount of Notice shall be governed by the particular circumstances.

7 (e) Person. “Person” means person as defined in California Evidence Code § 175.

8 (f) Documents. “Documents” means all written, recorded, graphic, or electronically  
9 stored matter whatsoever, including, but not limited to, materials produced pursuant to Rule 34 of the  
10 Federal Rules of Civil Procedure, by subpoena or by agreement, deposition transcripts and exhibits,  
11 interrogatory answers, responses to requests for admissions, and any portion of any Court papers that  
12 quote from the foregoing and any other disclosure or discovery material that is designated by the  
13 parties as “Confidential.” The term “documents” is limited to material or information produced in  
14 the above-captioned litigation.

15 **II. Scope and Intent.**

16 (a) Until further order of the Court or stipulation of the parties, all Information designated  
17 as “CONFIDENTIAL” by the Disclosing Party, to the extent such Information discloses  
18 CONFIDENTIAL Information, shall be subject to this stipulation. However, nothing in this  
19 stipulation shall prevent any party from seeking a modification of this stipulation or objecting to the  
20 designation of Information as CONFIDENTIAL Information which the party believes to be otherwise  
21 improper.

22 (b) The purpose and intent of this Order is to protect CONFIDENTIAL Information  
23 produced by both parties, including but not limited to peace officer personnel records and Kern  
24 County coroner/autopsy records and photographs. Nothing in this stipulation shall be construed to  
25 change existing law or shift existing burdens. The Parties acknowledge that this Order does not confer  
26 blanket protections on all disclosures, or responses to discovery, and that the protection it affords  
27 extends only to the limited information, or items, that are entitled under the applicable legal principles  
28 to treatment as confidential.

1 (c) The protections conferred by this Stipulated Protective Order cover not only  
2 Confidential Information (as defined above), but also any information copied or extracted therefrom,  
3 as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or  
4 presentations by parties or counsel to or in court or in other settings that might reveal Confidential  
5 Information.

6 (d) The parties recognize and acknowledge that some CONFIDENTIAL Information  
7 which may be sought is so sensitive that a party may refuse to disclose the Information even under  
8 the protection of this stipulation. In such event, this stipulation shall not be deemed consent or an  
9 admission that such Information is discoverable and a party may resist disclosure until the matter has  
10 been heard by the Court.

11 (e) This stipulation is the product of negotiations and, for purposes of construction and  
12 interpretation, shall not be deemed to have been drafted by one party.

13 (f) This stipulation shall be submitted for the signature of the Magistrate Judge assigned  
14 to this case in an ex parte manner without need of a formally noticed motion.

15 **III. Designation of CONFIDENTIAL INFORMATION.**

16 Any Disclosing Party may designate Information, or any portion of such Information, as  
17 CONFIDENTIAL Information by placing the word “CONFIDENTIAL” on the Information. By  
18 designating Information as CONFIDENTIAL, the Disclosing Party warrants that the designation is  
19 made in good faith and on reasonable belief that the Information so designated is CONFIDENTIAL  
20 Information as defined above.

21 **IV. Oral Deposition Testimony.**

22 A party may designate as CONFIDENTIAL Information, Information disclosed during oral  
23 deposition by stating so on the record or in writing within 30 days from receipt of the transcript.  
24 Where documents that have been designated as CONFIDENTIAL are entered into the record of a  
25 deposition or where CONFIDENTIAL Information is disclosed during deposition, such portion of  
26 the deposition containing CONFIDENTIAL Information shall be separately bound and marked  
27 “CONFIDENTIAL – UNDER PROTECTIVE ORDER” in a conspicuous place and shall be subject  
28 to the provisions of this stipulation.

1 **V. Objection to Designation.**

2 A party may at any time object to the designation of Information as CONFIDENTIAL and  
3 move the Court for an order declaring that such Information not be designated CONFIDENTIAL.  
4 No motion relating to the designation of Information as CONFIDENTIAL shall be filed without first  
5 completing the following steps. First, the moving party SHALL confer with the opposing party in a  
6 good faith effort to resolve the dispute. Second, if the good faith effort is unsuccessful, the moving  
7 party promptly shall seek a telephonic hearing with all involved parties and the Magistrate Judge. It  
8 shall be the obligation of the moving party to arrange and originate the conference call to the court.  
9 Counsel must comply with Local Rule 251 or the motion will be denied with prejudice and dropped  
10 from calendar.

11 **VI. Information Which Is Not Confidential.**

12 Notwithstanding the designation of Information as CONFIDENTIAL, such Information shall  
13 not be CONFIDENTIAL Information, nor shall disclosure be limited in accordance with this  
14 stipulation where such Information, is at the time of disclosure, in the public domain by publication  
15 otherwise.

16 **VII. CONFIDENTIAL Information Obtained from Third Parties.**

17 If CONFIDENTIAL Information is obtained from a third party, the third party may adopt the  
18 benefits and burdens of this stipulation. Likewise, any party may designate material or Information  
19 obtained from a third party as CONFIDENTIAL.

20 **VIII. Inadvertent Disclosure.**

21 An inadvertent failure to designate qualified information or items as Confidential does not,  
22 standing alone, waive the Designating Party's right to secure protection under this Stipulated  
23 Protective Order for such material. If material is appropriately designated as Confidential after the  
24 material was initially produced, the Receiving Party, on notification of the designation, must make  
25 reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

26 **IX. Documents Filed with the Court.**

27 If a party wishes to file documents with the Court which contain material designated  
28 CONFIDENTIAL, that party SHALL comply with Local Rules 140 and 141.

1 **X. Dissemination to Third Parties.**

2 (a) CONFIDENTIAL Information shall be disclosed only to the parties to this stipulation,  
3 their experts, consultants, and counsel. Before any person receives access to CONFIDENTIAL  
4 Information, each shall execute a copy of the form attached hereto as Exhibit A, reciting that he, she  
5 or it has read a copy of this stipulation and agrees to be bound by its terms.

6 (b) If any person who has obtained CONFIDENTIAL Information under the terms of this  
7 stipulation receives a subpoena commanding the production of CONFIDENTIAL Information, such  
8 person shall promptly notify the Disclosing Party of the service of the subpoena. The person receiving  
9 the subpoena shall not produce any CONFIDENTIAL Information in response to the subpoena  
10 without either the prior written consent of the Disclosing Party or order of the Court.

11 **XI. Use of CONFIDENTIAL Information During Trial.**

12 The Parties will identify in their exchange of Pre-Trial exhibit lists any documents they intend  
13 to use which are CONFIDENTIAL. If a party intends to introduce into evidence any  
14 CONFIDENTIAL Information at trial, which the opposing party has objected to in the exchange of  
15 Pre-Trial exhibit lists, that party SHALL notify the Court in the joint pretrial conference statement of  
16 this intention and SHALL seek an order related to the introduction of this evidence at trial. The  
17 moving party SHALL comply with the Court's pretrial order regarding whether this order will be  
18 sought in limine or otherwise. If a party seeks to introduce at trial evidence which that party has  
19 designated as CONFIDENTIAL Information, other parties which desire to use said information, are  
20 not required to notify the Court of the intent to use the CONFIDENTIAL Information.

21 A party may also seek to use CONFIDENTIAL Information for purposes of rebuttal but are  
22 required to notify the Court prior to introducing the evidence at trial.

23 **XII. Duty to Use Reasonable Care.**

24 All persons bound by this stipulation shall have the duty to use reasonable care and precaution  
25 to prevent violations thereof.

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1 **XIII. Enforcement.**

2 (a) Prior to bringing any motion or application before the Court for enforcement of this  
3 stipulation, the parties shall comply with the procedures set forth in paragraph 5.

4 (b) In the event anyone shall violate, attempt to violate or threaten to violate any of the  
5 terms of this stipulation, after compliance with the procedures in paragraph 5, the aggrieved party  
6 may apply to the Court to obtain compliance with this stipulation or to obtain appropriate injunctive  
7 relief. Each party agrees that, in response to an application for injunctive relief, it will not assert the  
8 defense that the aggrieved party possesses an adequate remedy at law.

9 (c) The Court may make any order against a party to this stipulation it deems appropriate  
10 to compel compliance in addition to any injunctive relief available to the parties.

11 (d) If CONFIDENTIAL Information is disclosed to any person other than as allowed by  
12 this stipulation, the person responsible for the disclosure must immediately bring all pertinent facts  
13 relating to such disclosure to the attention of counsel for the aggrieved party and without prejudice  
14 to the other rights and remedies of any party, make every effort to prevent further disclosure. Fines  
15 and/or sanctions for inadvertent or intentional disclosure shall be decided by the Court after briefing  
16 and argument by all parties concerned.

17 **XIV. Return/Destruction of Documents.**

18 Within 60 days after final termination of this action, including all appeals, each party shall be  
19 responsible for returning or destroying all original and/or copies of all CONFIDENTIAL Information  
20 produced during the course of this action and subject to this order, including all excerpts thereof,  
21 except that counsel may retain all memoranda, and correspondence derived from such  
22 CONFIDENTIAL Information and any such CONFIDENTIAL Information necessary for purposes  
23 of maintaining a legal file but after the end of such years, all such retained CONFIDENTIAL  
24 Information shall be returned or destroyed.

25 **XV. Modification and Amendments.**

26 Except as to those modifications made by the Court, this stipulation may be modified or  
27 amended without leave of Court by unanimous written agreement of the parties hereto.

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1 **XVI. Duration of Stipulation.**

2        Provided the court makes this stipulation an order of the Court, this stipulation shall survive  
3 and remain in full force and effect after the termination of this lawsuit, whether by final judgment  
4 after exhaustion of all appeals or by dismissal, and the Court shall retain jurisdiction over the parties  
5 and their attorneys for the purpose of enforcing the terms of this stipulation.

6                    **COURT ORDER ENTERING STIPULATED PROTECTIVE ORDER**

7        Pursuant to the stipulation of the parties, IT IS HEREBY ORDERED that:

- 8        1.        The above stipulated protective order (ECF No. 22) is entered;
- 9        2.        The parties are advised that pursuant to the Local Rules of the United States District  
10                Court, Eastern District of California, any documents which are to be filed under seal  
11                will require a written request which complies with Local Rule 141;
- 12        3.        The party making a request to file documents under seal shall be required to show  
13                either good cause or compelling reasons to seal the documents, depending on the type  
14                of filing, Pintos v. Pacific Creditors Ass'n, 605 F.3d 665, 677-78 (9th Cir. 2009); Ctr.  
15                for Auto Safety v. Chrysler Grp., LLC, 809 F.3d 1092, 1101 (9th Cir. 2016); and
- 16        4.        If a party's request to file Protected Material under seal is denied by the Court, then  
17                the previously filed material shall be immediately accepted by the court and become  
18                information in the public record and the information will be deemed filed as of the  
19                date that the request to file the Protected Information under seal was made.

20  
21 IT IS SO ORDERED.

22 Dated: **February 26, 2024**



UNITED STATES MAGISTRATE JUDGE